GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services - Commercial Taxes Department - Sri G.Venkateswarlu, former Joint Commissioner, O/o. the CCT - Allegation of irregularities in approving the proposals for refund of taxes in respect of M/s. Variegate -Projects (P) Ltd, Hyderabad- Departmental proceedings under Rule 20 of TCS (CC&A) Rules, 1991 - Articles of Charge - Issued.

REVENUE (VIGILANCE-II) DEPARTMENT

G.O.Rt.No.604 **Dated:28.07.2020.**
Read:-

G.O.Ms.No.208, Rev (Vig.II) Dept., dt.28-07-2020.

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O R D E R :-

It is proposed to hold an Inquiry against Sri G.Venkateswarlu, former Joint Commissioner, O/o. the Commissioner of Commercial Taxes, presently working as Commissioner, O/o. the Chief Commissioner (State Tax), Andhra Pradesh, Vijayawada, in accordance with the procedure laid down in Rule-20 of the Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991.

2. The substance of the imputations of misconduct or mis-behaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of article of charge (Annexure-I). A statement of imputations of misconduct or mis-behaviour in support of the article is also enclosed in Annexure-II. A list of documents by which, and a list of witnesses by whom the articles of charges are proposed to be substantiated are enclosed in Annexure-III and IV.

3. Sri G.Venkateswarlu, former Joint Commissioner, O/o. the Commissioner of Commercial Taxes, presently working as Commissioner, O/o. the Chief Commissioner (State Tax), Andhra Pradesh, Vijayawada is directed to submit his explanation within 10 days from the date of receipt of this order.

4. Sri G.Venkateswarlu, former Joint Commissioner, O/o. the Commissioner of Commercial Taxes, presently working as Commissioner, O/o. the Chief Commissioner (State Tax), Andhra Pradesh, Vijayawada is informed that an inquiry will be held only in respect of those articles of charges which are not admitted. He should, therefore, specifically admit or deny each article of charge.

5. Sri G.Venkateswarlu, former Joint Commissioner, O/o. the Commissioner of Commercial Taxes, Presently working as Commissioner, O/o. the Chief Commissioner (State Tax), Andhra Pradesh, Vijayawada is further informed that if he does not submit his written statement of defence on or before the time specified in para 3 above, further action will be processed based on the material available.

6. Attention of Sri G.Venkateswarlu, former Joint Commissioner, O/o. the Commissioner of Commercial Taxes, Presently working as Commissioner, O/o. the Chief Commissioner (State Tax), Andhra Pradesh, Vijayawada is invited to Rule-24 of Andhra Pradesh Civil Services (Conduct) Rules, 1964 under which no Government Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect

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of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Sri G.Venkateswarlu, former Joint Commissioner, O/o. the Commissioner of Commercial Taxes, Presently working as Commissioner, O/o. the Chief Commissioner (State Tax), Andhra Pradesh, Vijayawada is aware of such representation and that it has been made at his instance and action will be taken against him for violation of Rule-20 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964.

7. The receipt of this G.O. must be acknowledged.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

RAJAT BHARGAVA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
Sri G.Venkateswarlu, former Joint Commissioner, O/o. the CC(ST), AP, Vijayawada, presently working as Commissioner O/o. the CC(ST),AP, Vijayawada, Govt. of A.P. (**Through** Chief Commissioner (State Tax), Andhra Pradesh, Vijayawada Govt. of A.P.)
The Chief Commissioner of State Tax, Vijayawada, Govt. of A.P. (with a request to cause service of the Charge Memo on the individual by 31.07.2020 and send the served copy to Government.)

Copy to:-
The Commissioner of Commercial Taxes, Hyderabad.
The Director General, Vigilance & Enforcement, BRKR Bhavan, Hyderabad.
The Secretary to Vigilance Commissioner, TS Vigilance Commission, Hyderabad.
The Secretary to Vigilance Commissioner, APVC, Velagapudi, Vijayawada, A.P.
The Revenue(Vig.)Department, Telangana Secretariat, Hyderabad.
Sf/Sc.

//FORWARDED:: BY ORDER//

SECTION OFFICER

ANNEXURE-I

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST SRI G. VENKATESWARLU, FORMER JOINT COMMISSIONER (CT), O/o. COMMISSIONER (CT), HYDERABAD PRESENTLY WORKING AS COMMISSIONER (ST) O/o. CHIEF COMMISSIONER OF STATE TAX, ANDHRA PRADESH, VIJAYAWADA.

ARTICLE OF CHARGE:

Sri G.Venkateswarlu, former Joint Commissioner, O/o. the CCT,Hyderabad, committed grave irregularities in approving and granting of Refund of taxes to a tune of ₹Rs.3,98,32,460/- for the period 2007-08 & 2008-09 in respect of M/s Variegate Projects (P) Ltd., Hyderabad, in violation of the existing provisions of the Act. He while approving and granting the refund case did not consider the provisions of the A.P. VAT Act and Rules i.e., Sec. 22(3)(A), Sec.57, Rule 18 (3)(b) and orders issued in G.O. Ms. No.94 Irrigation and CAD (PW-COD)Department, dt.01-07-2003, CCT's circular instructions issued in CCT's Ref.No.AIII(1)/150/2012, dt.26-03-2013 and No.BVI(1)/76/2007 dt.04-06-2008. Thus, he failed to exercise due diligence in approving and granting the refund of Tax. It is a clear case of dereliction of duty, willful negligence and criminal misconduct on the part of the said officer.

Sri G.Venkateswarlu, former Joint Commissioner, O/o. the CCT,Hyderabad, presently working as Commissioner(ST), O/o. the CC(ST), A.P., Vijayawada, by his above mentioned acts has exhibited indiscipline, lack of integrity and devotion to duty, unbecoming of a Government Servant and thereby contravened Rule 3 (1) (2) & (4) of A.P.C.S. (conduct) Rules 1964.

RAJAT BHARGAVA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

//FORWARDED:: BY ORDER//

SECTION OFFICER

ANNEXURE – II

STATEMENT OF IMPUTATION OF MISCONDUCT IN SUPPORT OF ARTICLE OF CHARGE FRAMED AGAINST SRI G. VENKATESWARLU, FORMER JOINT COMMISSIONER (CT) O/o. COMMISSIONER (CT) HYDERABAD PRESENTLY WORKING AS COMMISSIONER (ST), O/o. CHIEF COMMISSIONER OF STATE TAX, ANDHRA PRADESH, VIJAYAWADA.

On the allegations of illegal approval and granting of refund for refund taxes in respect of M/s. Variegate Projects (P) Ltd., Hyderabad the V&E Department has conducted an enquiry.

It reveals that the amount of tax collected at source (TCS), which was added separately over and above the consideration for the execution of work, payable by the contractee, was unlawfully refunded for the following reasons:

M/s. Variegate Projects (P) Ltd., Hyderabad the contractor is a Government contractor and the Government being a Taxing and Collecting Authority and also being a contractee, made a provision for works contract Tax separately to the estimates while awarding works to the contractors so that such Tax which was added to the estimates is collected at the time of making payments to the contractor. This is known as Tax collection at source (ICS), since it is an exclusive provision for works contract awarded by the Government, necessary statutes where also inserted in the APVAT Act and Rules and it shall neither be refunded nor adjusted against the future liabilities of the contractors.

2) Sri G.Venkateswarlu, former Joint Commissioner, O/o. the CCT,Hyderabad, presently working as Commissioner, O/o. the CC(ST), A.P., Vijayawada, has stated that M/s. Variegate Projects (P) Ltd has executed works to the following contractors.

i. APEPDCL, Visakhapatnam.
ii. APSPDCL, Tirupathi.
iii. APTRANSCO, Hyderabad.
iv. APNPDCL, Warangal.
v. APCPDCL Hyderabad.
vi. Vijay Electricals Ltd., Hyderabad.

Rule 18(3) (b) is attracted only when TCS is made under Section 22 (3-A) of the APVAT Act and it is attracted only when the contractee is Government Local Authority. But the fact is otherwise. In the Memorandum and Articles of Association of transmission Corporation of India it is clearly stated at item No.(25) of Main objects, that it would act as an entrepreneur on behalf of the Central or any State Government, to identify new areas of economic investments and to undertake or help in undertaking of such investments.

Further, the subscribers to the Memorandum and Articles of Association have been nominated by the Government of Andhra Pradesh vide G.O.No.95, dt.06-11-1998. The above objects empower the corporations of the Government of Andhra Pradesh to carry on the business. As seen from the details of the Directors all the officers on board are drawn from the Government and the entire paid up share capital in the company is held by the Government of Andhra Pradesh.

Therefore, in clear terms it should be inferred that APGENCO & TRANSCO are Government run Corporations and public money is used to run the business.

The version of the officer that AP TRANSCO, APSPDCL, APNPDCL, APCPDCL, are neither state Govt. nor local authorities is not correct in view they are very much Government run corporations. The officer's that Section 22(3-A) read with rule 18(3)(b) and the case law quoted also does not hold good.

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3) The dealer procured materials with money including tax of the Government. It is to be understood that tax of 12.5% paid on the purchase of the material was borne by the Government and under no circumstances the dealer can take back the tax left after deducting the output tax @ 4%. Since goods supplied to the Government falls under entry 116 of AP VAT Act and are taxable @ 4%. Thus the Government is back the excess amount lest the dealer should enrich himself unduly. Therefore, the statement of Sri G.Venkateswarulu, that the differential 8.5% of tax (ITC) resulted in the refund to the dealer is not tenable.

The contractor purchased the tax suffered goods locally @ 12.5% and executed works to M/s AP TRANSCO, AP GENCO which is taxable @ 4%.

The officer's argument that what was refunded was not even Tax deducted at source but the Input Tax Credit paid on locally purchased goods is not tenable for the reason that instead of refunding the money to TRANSCO, GENCO, it was sought to be refunded to the contractor. If at all a refund has to be issued, it has to be given to TRANSCO, GENCO or Government.

Thus, by the above mentioned Acts, Sri G.Venkateswarlu, former Joint Commissioner, O/o. the CCT, Hyderabad, presently working as Commissioner(ST), O/o. the CC(ST), A.P., Vijayawada, has showed gross negligence while doing his official duty caused loss of revenue to the State exchequer, and in not obeying the Government orders and as well as instructions of the higher authorities and contravened Rule 3 of the A.P.C.S. (Conduct) Rules, 1964.

RAJAT BHARGAVA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

//FORWARDED:: BY ORDER//

SECTION OFFICER

ANNEXURE – III

LIST OF DOCUMENTS BY WHICH ARTICLE OF CHARGE FRAMED AGAINST SRI G. VENKATESWARLU, FORMER JOINT COMMISSIONER (CT) O/o. COMMISSIONER (CT), HYDERABAD PRESENTLY WORKING AS COMMISSIONER (ST) O/o. CHIEF COMMISSIONER OF STATE TAX, ANDHRA PRADESH, VIJAYAWADA ARE PROPOSED TO BE SUSTAINED:

1. Vigilance Report No. 41(C.No.98/V&E/R1/2014), Dt.26.3.2014.
2. Copy of G.O.Ms.No.11, dt.29-07-2005.
3. Copy of G.O. No. 94, dt. 01-07-2003.
4. Copy of Circular of Commissioner (CT) in ref.No. AIII(1)/150/2012, dt. 26-03-2013.
5. Copy of CCT's Ref. No. BV(I)/76/2007, dt. 04-06-2008.

RAJAT BHARGAVA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

//FORWARDED:: BY ORDER//

SECTION OFFICER

ANNEXURE –IV

LIST OF WITNESSES BY WHOM ARTICLE OF CHARGES FRAMED AGAINST SRI G. VENKATESWARLU, FORMER JOINT COMMISSIONER (CT) O/o. COMMISSIONER (CT), HYDERABAD PRESENTLY WORKING AS COMMISSIONER (ST) O/o. CHIEF COMMISSIONER OF STATE TAX, ANDHRA PRADESH, VIJAYAWADA ARE PROPOSED TO BE SUSTAINED:

- NIL -

RAJAT BHARGAVA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

//FORWARDED:: BY ORDER//

SECTION OFFICER